

**UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA  
PITTSBURGH DIVISION**

THOMAS B. LEWIS,

v.

Case No. 2-22-CV-1012

UNITED STATES OF AMERICA.

**Complaint (Federal Tort Claims Act)**

NOW, through undersigned counsel, comes Thomas B. Lewis, United States Veteran, under the Federal Tort Claims Act, 28 U.S.C. §§ 2671-2680, 28 U.S.C. § 1346(b) (the “FTCA”) against the United States of America (the “Government”), respectfully avers as follows:

**Overview**

1. This suit arises out of a series of related but separate acts and omissions of medical negligence and negligence committed by direct employees of the United States Department of Veterans' Affairs, with regard to United States Veteran Thomas B. Lewis. The said acts and omissions started on May 3, 2019, continued to occur and became more severe and more damaging during and between subsequent hospitalizations, treatment and care culminating on September 29, 2020.

**The Parties**

2. Plaintiff Thomas B. Lewis is person of the full age of majority domiciled in Uniontown, Pennsylvania.
3. Defendant Veterans Administration is a Department of the United States of America which provides services, including health care, to United States veterans.

**Jurisdiction and Venue**

4. Jurisdiction of the Court is invoked pursuant to 29 U.S.C. Sec. 216(b), 28 U.S.C. Sec. 1331.
5. Venue is proper within this district pursuant to 28 U.S.C. Sec. 1391 because all parties reside within the district.

**Legal Background**

6. Plaintiff asserts claims herein for personal injury, pursuant to the Federal Tort Claims Act, individually, against the United States of America (the “Government”), which acted at relevant times through the U.S. Department of Veterans' Affairs (the “VA”). The VA owned and operated medical clinic facilities and related facilities in the Pittsburgh area.

7. During time periods relevant to this complaint, Defendant's employees and agents acting in the course and scope of their employment and agency, routinely rendered medical care to United States veterans. Specifically, they rendered medical care at relevant times to Thomas B. Lewis stemming from an injury to his hip that required a total hip replacement.
8. The Government is responsible for acts and omissions of malpractice committed directly by VA employees, such as VA physicians, VA nurses, VA caregivers and therapists, and VA administrators, as described herein.

### **Facts Establishing Liability**

9. The Government is liable to the Plaintiff for damages in an amount to be determined by the trier of fact for the following reasons, to-wit:
10. Thomas B. Lewis was a United States Airman who served his country on active duty from 1964 through 1968 and was subsequently honorably discharged from service.
11. Before the events detailed in this Complaint, Thomas B. Lewis was muscular and generally healthy.
12. Prior to May of 2019, Plaintiff began experiencing pain in in his hip and began having difficulty walking. Tests and examinations were performed by the VA doctors during this period. Plaintiff was diagnosed with failing hips and it was recommended that he undergo a total hip replacement.
13. On May 3, 2019, said surgery took place, at the Veterans Administration Hospital located in Pittsburgh, Pennsylvania.
14. Plaintiff avers that during surgery, the VA physicians and medical staff failed to attach Plaintiff's abductors to the greater trochanter and/or failed to properly attach the same, and failed to attach his abductor musculature along the right proximal femur, or failed to properly attach the same, thereby preventing the abductors to attach and heal so as to allow Plaintiff to have proper movement of his hips and legs.
15. Plaintiff avers that the foregoing facts illustrate numerous breaches of the applicable **medical** standard of care beginning on May 3, 2019 continuing through the present.
16. The VA and its physicians and medical staff owed a duty to Mr. Lewis to provide him medical care satisfying or exceeding the reasonable standard of care applicable to a hip replacement.
17. The VA and its physicians and medical staff breached this duty by improperly attaching his hip and leg muscles, in dereliction of the standard of care applicable to a hip replacement.
18. These surgical missteps were the proximate cause of the harm suffered, namely, Plaintiff's continuing pain, loss of mobility in his hip and leg, and general deterioration in his health due to his increasing immobility.
19. The damages Plaintiff has suffered are a direct result of the harm caused by the VA and its physicians and medical staff.
20. To the extent these breaches were committed by persons cognizable under the Federal Tort Claims Act, damages are sought herein against the Government pursuant to the FTCA.

21. Mr. Lewis is unable to enjoy life as he has difficulty ambulating, sitting, standing, and performing any and all movements and activities involving his legs and hips.
22. Plaintiff seeks damages herein for the past pain and suffering, loss of enjoyment of life, inability to engage in usual activities, emotional distress, and mental anguish for costs of medical care (see next paragraph), and for past and future loss of services and society.
23. On information and current belief, all medical expenses concerning this matter were provided through the VA. Plaintiff reserves the right to recover as damages the cost of other past medical expenses should this belief prove inaccurate.
24. Plaintiff timely filed a written claim for administrative review concerning the instant matter, pursuant to the FTCA, on January 12, 2022. (See Exhibit "A"). Receipt thereof was acknowledged by the VA. Upon completion of Administrative review, a final denial was issued on Plaintiff's administrative claim. (See Exhibit B).

WHEREFORE, Plaintiff prays that the United States of America be cited to appear and answer this Complaint, and that after all legal delays and due proceedings had, that a Judgment be rendered in favor of Plaintiff and against the United States of America for damages as determined by the trier of fact, plus any interest that may be allowed by law and for costs of these proceedings.

Respectfully submitted,

\_\_\_\_s/ Sean Logue\_\_\_\_  
Attorney for Plaintiff